101-524

Public Law 101-524
101st Congress

An Act

To amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

Nov. 6, 1990
[H.R. 2331]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deceptive Mailings Prevention Act of 1990.
39 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1990".

SEC. 2. AMENDMENTS TO TITLE 39.

Regulations.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code is amended by redesignating subsections (f) and (g) as subsections (i) and (j) respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS IS NOT A GOVERNMENT DOCUMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

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"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for information or the contribution of funds or membership fees and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS IS NOT A GOVERNMENT DOCUMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.".

(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended by striking out "section 3001(d)" each place that it appears and inserting in lieu thereof "section 3001 (d), (f), or (g)".

SEC. 3. REVIEW AND REPORT BY THE UNITED STATES POSTAL SERVICE.

No later than 90 days after the date of enactment of this Act, the United States Postal Service shall—

(1)(A) conduct a comprehensive review to determine if the provisions of section 123.33 of the Domestic Mail Manual (as in effect on such date of enactment) are being appropriately observed; and

(B) take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out;

(2) conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of such matter; and

(3) submit a written report to the Senate and the House of Representatives describing its findings and actions under this section.

SEC. 4. COORDINATION OF FUNCTIONS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

39 USC 3001 note.

The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act with the Secretary of the Department of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b-10).

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) POSTAL SERVICES AT DIPLOMATIC POSTS.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

Government contracts.

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

39 USC 3001 note.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.R. 2331 (S. 273):

HOUSE REPORTS: No. 101-178 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 101-464 accompanying S. 273 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 31, considered and passed House.
Vol. 136 (1990): Oct. 4, considered and passed Senate, amended, in lieu of S. 273.
Oct. 19, House concurred in Senate amendments.

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